

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GARY WAYNE RICE,)
)
 Petitioner,)
)
 v.) 1:12CV628
)
 RICHARD NEELEY,)
)
 Respondent.)

RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Petitioner previously filed a Petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Docket Entry 2), along with a request to proceed *in forma pauperis* (Docket Entry 1). After concluding that Petitioner was required to pay the \$5.00 filing fee, the Court stayed the matter to allow him 30 days to submit payment. (Docket Entry 3.) The Order warned that failure to do so would result in the dismissal of his case without prejudice, but also without further warning. The 30-day period has now expired and Petitioner did not submit a payment, seek relief from the prior Order, or request an extension of the stay.

IT IS THEREFORE RECOMMENDED that the Petition (Docket Entry 2) be dismissed without prejudice to refile along with the \$5.00 filing fee or a current application to proceed *in forma pauperis*.

/s/ L. Patrick Auld
L. Patrick Auld
United States Magistrate Judge

August 15, 2012